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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/625,981 | 07/24/2003 | Michael P. Burns | 576SC [2630.3131.001] | 1703 |

7590 09/27/2005

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| EXAMINER |
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CHIESA, RICHARD L

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| ART UNIT | PAPER NUMBER |
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1724

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/625,981

Applicant(s)

BURNS, MICHAEL P.

Examiner

Richard L. Chiesa

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-5 and 7-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-19 and 25 is/are allowed.
- 6) ☒ Claim(s) 3,4,20,21,23 and 24 is/are rejected.
- 7) ☒ Claim(s) 5 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION***Response To Amendment***

- (1.) The amendment filed on August 22, 2005 has been entered.

Claim Rejections – 35 USC 102/103

- (2.) The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

- (3.) Claims 3, 20, 21, 23, and 24 are again rejected under 35 USC 102(b) or 35 USC 103(a) over S&W as applied in paragraph 6 on page 3 of the last Office action (dated May 24, 2005). Contrary to applicant's comments, it would appear that S&W does indeed show an air bypass channel (note ref. num. 17, 30, Figure 1) as claimed.

- (4.) Claim 4 is again rejected as unpatentable over S&W in view of Ishii as applied in paragraph 7 on pages 3 and 4 of the last Office action (dated May 24, 2005). Despite applicant's assertion to the contrary, Ishii teaches the well-known use of an air bypass 65 defined by the body of the charge forming apparatus (note Figures 1-6).

Allowable Subject Matter

- (5.) Claims 7-19, and 25 are allowed.

(6.) Claims 5 and 22 are objected to as dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

(7.) Claim 20 would be allowable if: (A) the phrase -- , said fuel metering system comprising a flexible diaphragm positioned between a fuel metering chamber and a dry reference chamber -- was inserted between "region" and the semi-colon on the tenth line; (B) the phrase -- comprising a reference nozzle -- was inserted between "passage" and "communicating" on the eleventh line; (C) the phrase "a dry reference chamber" (line 14) was changed to -- said dry reference chamber --, and (D) the phrase -- by movement of said throttling choke valve toward said reference nozzle -- was inserted between "passage" and the period on the last line.

(8.) Claim 23 would be allowable if: (A) the phrase -- , said reference passage comprising a reference nozzle -- was inserted between "valve" and the semi-colon on the tenth line, and (B) the phrase -- when said throttling choke valve moves toward said reference nozzle -- was inserted between "wall" and the semi-colon on the twelfth line.

Response To Arguments

(9.) Applicant's arguments filed on August 22, 2005 have been carefully reviewed but are found to be unpersuasive for the reasons explained previously above in paragraphs 3 and 4. Furthermore, applicant's comments relative to claims 20 and 23 would appear to

be irrelevant because the claims do not presently recite that the throttling choke valve moves toward the reference nozzle.

Conclusion

(10.) **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

(11.) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard L. Chiesa whose telephone number is (571) 272-1154.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane S. Smith, can be reached at (571) 272-1166.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1700 receptionist whose telephone number is (571) 272-1700.

Facsimile correspondence must be transmitted through (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard L. Chiesa
September 20, 2005

Richard L. Chiesa

**RICHARD L. CHIESA
PRIMARY EXAMINER
ART UNIT 1724**

Sept. 20, 2005